

Appendix G: Participant Safeguards

Appendix G-1: Response to Critical Events or Incidents

- a. **Critical Event or Incident Reporting and Management Process.** Indicate whether the State operates Critical Event or Incident Reporting and Management Process that enables the State to collect information on sentinel events occurring in the waiver program. *Select one:*

X	Yes. The State operates a Critical Event or Incident Reporting and Management Process (complete Items b through e)
	No. This Appendix does not apply (do not complete Items b through e). <i>If the State does not operate a Critical Event or Incident Reporting and Management Process, describe the process that the State uses to elicit information on the health and welfare of individuals served through the program.</i>

- b. **State Critical Event or Incident Reporting Requirements.** Specify the types of critical events or incidents (including alleged abuse, neglect and exploitation) that the State requires to be reported for review and follow-up action by an appropriate authority, the individuals and/or entities that are required to report such events and incidents, and the timelines for reporting. State laws, regulations, and policies that are referenced are available to CMS upon request through the Medicaid agency or the operating agency (if applicable).

All “Reportable” incidents, as defined by the DDA’s Policy on Reportable Incidents and Investigations (PORII), are reported to Office of Health Care Quality (DDA licensure and investigative entity), the appropriate DDA Regional Office and Coordination of Community Services. PORII also identifies incidents that need to be report to external entities such as the State’s Protection and Advocacy agency (Disability Rights Maryland), Adult Protective Services or Child Protective Services (as applicable), and law enforcement. The SMA has access to all incidents through the DDA Provider Consumer Information System (PCIS2).

All Type 1 “Reportable” incidents are required to be reported within 24 hours. Type 1 incidents include: abuse, neglect, death, hospital admissions/emergency room visits, injury, medication error, and choking. Abuse includes physical abuse; verbal abuse; mental abuse; sexual abuse; and involuntary seclusion. This is required of all DDA licensed providers.

Type 2 “Reportable” incidents are also required to be reported within one working day to the DDA Regional Office, family/legal guardian/advocate(s), and Coordinator of Community Service. Type 2 incidents include: law enforcement, fire department, or emergency medical services involvement; theft of an individual’s property or funds; unexpected or risky absence; restraints, and any other incident not otherwise defined in the policy that impacts or may impact the health or safety of an individual person. Restraint includes any physical, chemical or mechanical intervention used to impede an individual’s physical mobility or limit free access to the environment and /or to control acute, episodic behavior including those that are approved as part of an individual’s plan or those used on an emergency basis.

“Internally Investigated Incidents” are outlined in the policy and include events such as physical aggression, planned hospital admissions, minor abrasions, blisters, sunburn, etc. that require minor routine treatment, etc. Internally investigated incidents must be reported to the service provider’s director, or designee, within

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one working day of discovery. A listing of all internally investigated incidents which occurred during the prior quarterly period for all DDA service providers is accessible through the DDA Provider Consumer Information System (PCIS2).

When a participant who resides with his or her family experiences a critical incident that jeopardizes the individual's health and safety, the Coordinator of Community Services service providers will seek the assistance of law enforcement or Child Protective or Adult Protective Services who has the authority to remove the alleged perpetrator or the victim from the home to ensure safety.

- c. Participant Training and Education.** Describe how training and/or information is provided to participants (and/or families or legal representatives, as appropriate) concerning protections from abuse, neglect, and exploitation, including how participants (and/or families or legal representatives, as appropriate) can notify appropriate authorities or entities when the participant may have experienced abuse, neglect or exploitation.

The Coordinator of Community Service reviews the participant's Rights and Responsibilities form with the waiver participant and his/her family, and then the participant or his/her parent/guardian signs the form. The rights and responsibilities include the waiver participant's right to be free from abuse, neglect, and exploitation. It also explains how to notify the appropriate authorities when problems arise. The Coordinator of Community Service provides the participant information regarding contact information for concerns or complaints.

The DDA Director Family Supports, Director of Advocacy Supports and Regional Office Self Advocates provide information, training, and webinars related to protections and how to report.

Licensed providers must ensure a copy of the policy and the agency's internal protocol on incident management is available to individuals receiving services, their parents or guardians and advocates.

The policy and all necessary forms are also available on the DDA website.

- d. Responsibility for Review of and Response to Critical Events or Incidents.** Specify the entity (or entities) that receives reports of critical events or incidents specified in item G-1-a, the methods that are employed to evaluate such reports, and the processes and time-frames for responding to critical events or incidents, including conducting investigations.

TYPE 1 INCIDENTS

The DDA, SMA, OHCQ, Coordinator of Community Services, family, legal guardian, and authorized representative of the participant receive reports of all critical incidents.

Based on the type of incident, the incident will also be reported to the following entities as stated in the policy: law enforcement, Adult Protective Services or Child Protective Services (as applicable), the State's Protection and Advocacy organization, and Maryland Board of Nursing when applicable. All allegations of abuse or neglect must be reported to the State's Protection and Advocacy organization, Child or Adult Protective Services, and local law enforcement.

Initial Screening: Agency self-reported incidents and community complaints are reviewed within one working day of receipt by OHCQ and/or DDA staff to ensure that those incidents posing immediate jeopardy to the individual are immediately investigated.

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An OHCQ triage unit staff reviews each report and notifies the DD Investigations Unit Manager (at OHCQ) or the Quality Enhancement Coordinator at DDA regional offices of the need to evaluate the report for appropriate assignment based upon the severity and scope of the incident. The committee also takes into consideration the number and frequency of reportable incidents or complaints attributed to the agency and the quality of the agency's internal investigations. The content of the written report is evaluated to ensure the following information is included:

1. The individual is not in immediate danger;
2. When applicable, law enforcement and/or adult/child protective services have been contacted;
3. Staff suspected of abuse or neglect have been suspended from duty;
4. The individual has received needed intervention and health care;
5. Systemic and/or environmental issues have been identified and emergently handled.

If this information is not available in the report, the triage staff corresponds with the agency to ascertain the status of the individual and ensure health and safety. An inability to obtain this information from the agency within a reasonable timeframe (generally no more than 48 hours of initial review of the report), will influence the decision to begin an on-site investigation or activity more quickly.

The OHCQ conducts investigations through on-site inspections, interviews, or reviews of relevant records and documents. As noted in the policy, the OHCQ initiates investigations based on the priority classification of the incident as follows:

1. Priority Level 1 - Immediate Jeopardy – an on-site investigation within 2 working days of receipt.
2. Priority Level 2 - High – an on-site investigation within 10 working days of receipt.
3. Priority Level 3- Medium – an on-site investigation within 30 working days of assignment.
4. Priority Level 4 - Administrative Review – will electronically correspond with the licensee to ascertain the status of the individual.
5. Priority Level 5—Referrals—Refer to internal OHCQ unit or appropriate agency for follow-up within 1 working day; or
6. Priority Level 6—Death—Upon notification, refer to the Mortality Review Unit of OHCQ within 1 working day for review and investigation.

During the investigation of an incident, an OHCQ investigator reviews the agency investigation report (AIR) and related documentation. The investigator(s) will make his or her best effort to interview all persons with knowledge of the incident, including, but not limited to: the individual receiving services, her/his guardian or family member(s), the agency's direct care and administrative staff who were involved in the incident, etc. The investigator also makes direct observations of the individual in her/his environment. When possible, evidence is corroborated between interviews, record reviews, and observations. Deficiencies are, to the extent practicable, cited at an exit conference held upon completion of the on-site investigation. Investigations are completed, whenever possible, within 45 working days of initiation.

TYPE 2 INCIDENTS

DDA Regional Quality Enhancement (QE) staff reviews and prioritizes Type 2 reportable incidents within one working day of receipt to ensure that those incidents posing immediate jeopardy to the individual receive immediate follow up. Each report is reviewed for completeness and for evidence of agency intervention that safeguards the health and safety of the individual. An initial review determines if intake information is sufficient to determine dangerous conditions are not present and ongoing.

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If, based on review of the report, the DDA Regional QE staff is unable to determine that action has been taken by the agency to protect the participant from harm; the staff will intervene. Intervention may be via contact with the licensee by email or telephone or an on-site visit. An incident report that is incomplete or contains errors will result in an email from the DDA Regional QE staff to the agency requesting revision to the incident report and resubmission of a complete and correct report.

Based upon their review and/or if an incident report is submitted incorrectly (the classification should be a Type 1 incident, not a Type 2), DDA may refer an incident to the OHCQ for further review and possible investigation.

When an agency reports three or more incidents that involve the same individual within a four-week period, the DDA will determine, based upon the agency's compliance history and nature of the incidents, whether an on-site visit is warranted.

INCIDENTS OUTSIDE OF A SITE OR SERVICE LICENSED BY DDA

When an incident is alleged to have occurred outside of a site or service licensed by DDA, the Coordinator of Community Services and service providers will seek the assistance of law enforcement or Child Protective or Adult Protective Services for review and investigation. The OHCQ, DDA, or SMA may also refer the incident to the appropriate entities or jurisdictions for their review and investigation.

When indicated, incidents are referred to the Attorney General's Medicaid Fraud Control Unit for consideration of filing criminal charges. When an incident involves legal issues for the individual, it may be referred to the State's Protection and Advocacy organization.

DEATHS

All deaths are submitted to the OHCQ Mortality Investigation Unit for review and investigation. The OHCQ Mortality Investigation Unit evaluates death reports, determines priority for investigations and conducts investigations using its own policies and procedures. Findings are submitted to the Department's Mortality and Quality Review Committee (MQRC). The MQRC is independent of the OHCQ and DDA and reviews the investigations of all deaths of individuals that occur in DDA-licensed settings and services.

- e. Responsibility for Oversight of Critical Incidents and Events.** Identify the State agency (or agencies) responsible for overseeing the reporting of and response to critical incidents or events that affect waiver participants, how this oversight is conducted, and how frequently.

The DDA and SMA are responsible for oversight of the incident reporting system.

The DDA reviews and analyzes various information including the types of incidents; participant characteristics; type of providers; timeliness of reporting and investigations and a quarterly basis. Information is collected via the DDA incident reporting data system and tracking reports. The DDA also utilizes national experts, surveys, Mortality reports, and research institutes to assist with analysis, trending, and development of system improvement strategies.

The DDA's Director of Nursing and Regional Office Nurses review statewide and region specific incidents related to health and safety and all deaths to then recommend training and/or educational alerts to address concerns or trends. In some instances, the DDA regional nurse may do an on-site survey to review the provider agency's notes related to the provision of nursing services. Regional Office Nurses' review of incidents allows for trend identification and agency

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specific action that may lead to remediation. Regional Office Nurses provide ongoing technical and follow-up assistance to DD community nurses, providers, Coordinators of Community Service and families.

The SMA has the authority to investigate or review any event/issue of a serious nature that does or has the potential to negatively impact on the health, welfare, and safety of waiver participants. The SMA also uses its oversight of DDA's execution of delegated functions to ensure that the established procedures are being implemented as intended.

Appendix G-2: Safeguards Concerning Restraints and Restrictive Interventions

- a. **Use of Restraints (select one) :** *(For waiver actions submitted before March 2014, responses in Appendix G-2-a will display information for both restraints and seclusion. For most waiver actions submitted after March 2014, responses regarding seclusion appear in Appendix G-2-c.)*

	<p>The State does not permit or prohibits the use of restraints</p> <p>Specify the State agency (or agencies) responsible for detecting the unauthorized use of restraints and how this oversight is conducted and its frequency:</p>
X	<p>The use of restraints is permitted during the course of the delivery of waiver services.</p> <p>Complete Items G-2-a-i and G-2-a-ii:</p>

- i. **Safeguards Concerning the Use of Restraints.** Specify the safeguards that the State has established concerning the use of each type of restraint (i.e., personal restraints, drugs used as restraints, mechanical restraints). State laws, regulations, and policies that are referenced are available to CMS upon request through the Medicaid agency or the operating agency (if applicable).

USE OF ALTERNATIVE METHODS TO AVOID THE USE OF RESTRAINTS

DDA is committed to providing positive behavioral interventions and supports for all individuals. This includes an emphasis upon the use of non-restrictive behavioral procedures and the reduction of physical restraints. Positive behavior interventions are based on a tiered system that always begins with positive interactions before moving to formalized restrictive techniques. Tier 1 includes providing positive interactions, choice making, and predictable and proactive settings or environments. Tier 2 focuses on social, communication, emotional, and physiological intervention or therapies; mobile crisis teams; and behavioral respite based on trauma informed care. Tier 3 is the use of restrictive techniques based on a functional assessment and approved strategies developed in the Behavior Plan.

METHOD OF DETECTING UNAUTHORIZED USE OF RESTRAINTS

The following strategies are used to detect unauthorized use of restraints and/or seclusion:

1. Waiver participants and family members are given the DDA contact number to report incidents to DDA. The policy is also available on the DDA website as a reference.
2. Quality monitoring and follow up activities are conducted by the Coordinator of Community Services where unauthorized restraints can be detected;
3. Licensee provider conduct staff performance evaluations and monitoring activities to ensure knowledge of policy, person specific strategies, and reporting requirements;

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4. Incident Reports - The reporting of unauthorized restraints is covered by the DDA's incident policy (PORII) for which all DDA waiver providers are required to follow. The policy specifically addresses incidents of unauthorized use of restraints and/or seclusion. The policy requires providers to submit a report within specified timeframes to DDA regarding the outcome and follow-up of the incident.
5. Complaints – anyone can call the DDA, SMA, or OHCQ to file a complaint including the use of restraint on a participant. In addition, complaints can be filed anonymously via the OHCQ website.

RESTRAINT PROTOCOLS

Providers must adhere to the regulations set forth in the policy for Behavioral Support Services (BSS) according to COMAR 10.22.10. The DDA's BSS are designed to assist individuals who exhibit challenging behavioral in acquiring skills, gaining social acceptance, and becoming full participants in their community.

The emergency use of restraints and seclusion is used only for the protection and life safety of waiver participant and others. Licensed waiver providers are required to document and report the use of emergency restraints in accordance policy on reportable incidents.

Regulations and policy specify that a licensed provider must ensure that a Behavior Plan (BP) is developed for each individual for whom it is required and must:

1. Represent the least restrictive, effective alternative or the lowest effective dose of a medication;
2. Be implemented only after other methods have been systematically tried, and objectively determined to be ineffective;
3. Be developed, in conjunction with the team, by qualified professionals who have training and experience in applied behavior analysis;
4. Be based on and include a functional analysis or assessment of each challenging behavior as identified in the person-centered plan; specify the behavioral objectives for the individual, and include a description of the hypothesized function of current behaviors, including their frequency and severity and criteria for determining achievement of the objectives established;
5. Take into account the medical condition of the individual. It should describe the treatment techniques and when the techniques are to be used;
6. Specify the emergency procedures to be implemented for the individual with a history of exhibiting behaviors that present a danger to self or serious bodily harm to others; and include a description of the adaptive skills to be learned by the individual that serve as functional alternatives to the challenging behavior or behaviors to be decreased;
7. Identify the person or persons responsible for monitoring the BP;
8. Specify the data to be collected to assess progress towards meeting the BP's objectives; and
9. Ensure that each use of mechanical and physical restraint, the reason for its use, and the length of time used is described and documented, as a part of data collection.

Before implementation, the licensee shall ensure that each behavior plan which includes the use of restrictive techniques is:

1. Approved by the standing committee as specified in regulations; and
2. Includes written informed consent of the: (a) individual; (b) individual's legal guardian; or (c) surrogate decision maker as defined in Health-General Article, Annotated Code of Maryland.

Before a licensee discontinues a behavior plan, the team and an individual appropriately licensed under Health Occupations Article with training and experience in applied behavior analysis shall recommend

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that the individual no longer needs a behavior plan.

PRACTICES TO ENSURE THE HEALTH AND SAFETY OF PARTICIPANTS

As per regulations and policy, the use of any restrictive technique must be described in an approved Behavioral Plan. The licensee shall:

1. Ensure staff are trained on the specific restrictive techniques and strategies;
2. Collect and present objective data to the authorizing licensed health care practitioner to indicate whether the restrictive technique being used is effective in reducing the individual's challenging behavior;
3. Report unauthorized restraints;
4. Convene the team within 5 calendar days after an emergency use of a restrictive technique to review the situation and action taken;
5. Determine subsequent action including whether the development or modification of a Behavior Plan is necessary; and
6. Document that the requirements of regulations have been met.

The licensee shall ensure that staff do not use:

1. Any method or technique prohibited by law, including aversive techniques;
2. Any method or technique which deprives an individual of any basic right specified in Health-General Article, Annotated Code of Maryland, except as permitted in regulations;
3. Seclusion;
4. A room from which egress is prevented; or
5. A program which results in a nutritionally inadequate diet.

In addition, DDA Regional Office Quality Enhancement reviews remediation efforts for each occurrence of restraint usage for preventive measures to reduce/eliminate restraint use.

REQUIRED DOCUMENTATION OF USE OF RESTRAINTS

All use of restraints and restrictive techniques must be documented in the individual's record, including the specific technique, reasons for use, and length of time used. Antecedent, behavior, consequence data is reviewed as part of monitoring of the behavior plan.

Unauthorized restraints must be reported as per the policy on reportable incidents.

EDUCATION AND TRAINING REQUIREMENTS

In addition to training specific to an individual's BP, all individuals providing behavioral supports and implementing a BP must receive training on the principles of behavioral change and on appropriate methods of preventing or managing challenging behaviors as required by regulations. In addition, family members will receive the necessary support and training to implement these positive approaches as well.

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- ii. State Oversight Responsibility.** Specify the State agency (or agencies) responsible for overseeing the use of restraints and ensuring that State safeguards concerning their use are followed and how such oversight is conducted and its frequency:

The DDA, SMA, and OHCQ are responsible for overseeing the use of restraints and ensuring that State safeguards concerning their use are followed.

METHOD OF DETECTING UNAUTHORIZED USE, OVER USE OR INAPPROPRIATE OR INEFFECTIVE USE OF RESTRAINTS AND ALL APPLICABLE STATE REQUIREMENTS ARE FOLLOWED

1. The DDA and OHCQ monitor community providers and ensure that services, including behavioral support services, are delivered in accordance with the person-centered plan.
 - a. The OHCQ conducts regulatory site visits to licensed community providers to ensure that providers are providing services in accordance with COMAR regulations which includes the Behavior Support Services Program Service Plan.
 - b. DDA staff conduct on-site interviews with individuals and provider agency staff during visits and ascertain that services, including behavioral support services, are delivered in accordance with plans and that the participant is satisfied with services being received.
2. The OHCQ, DDA, and SMA conduct unannounced visits, observations, and interviews individuals to gauge quality of services, obtain needs and concerns, and follow up on any areas of concern. Interviews of individuals can be conducted in a private area, especially when the nature of the conversation involves the present staff.
3. The SMA conducts independent reviews and investigations which includes reviewing a sample of participant records to ensure that services were provided in accordance with requirements/assurances and were based on assessed needs, the person-centered plan and behavioral plan.

DATA USE STRATEGIES

1. DDA and OHCQ meet on a quarterly basis to review data analysis, trends, and discuss person specific and systemic issues arising from investigation and survey reports.
2. Data collected as part OHCQ/DDA monitoring of behavioral supports is analyzed and provided to the Statewide Behavioral Supports Committee (SBSC) whose mission is to promote and monitor the safe, effective and appropriate use of behavior change techniques through recommendations to the DDA. Recommendations from the SBSC are used to make systemic improvements in the provision of behavioral supports for individuals receiving waiver services.
3. Data and trends can also be shared with the DDA Quality Advisory Council for input on system improvement strategies.

METHOD FOR OVERSEEING THE OPERATION OF THE INCIDENT MANGEMENT SYSTEM AND FREQUENCY

The DDA uses quarterly and annual quality reports related to performance measure data and system outcomes to oversee and continuously assess the effectiveness of the incident management system.

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b. Use of Restrictive Interventions

	<p>The State does not permit or prohibits the use of restrictive interventions</p> <p>Specify the State agency (or agencies) responsible for detecting the unauthorized use of restrictive interventions and how this oversight is conducted and its frequency:</p>
X	<p>The use of restrictive interventions is permitted during the course of the delivery of waiver services. Complete Items G-2-b-i and G-2-b-ii.</p>

- i. **Safeguards Concerning the Use of Restrictive Interventions.** Specify the safeguards that the State has in effect concerning the use of interventions that restrict participant movement, participant access to other individuals, locations or activities, restrict participant rights or employ aversive methods (not including restraints or seclusion) to modify behavior. State laws, regulations, and policies referenced in the specification are available to CMS upon request through the Medicaid agency or the operating agency.

The State defines restraints (restrictive interventions) as “Any physical, chemical or mechanical intervention used to impede an individual’s physical mobility or limit free access to the environment and /or to control acute, episodic behavior including those that are approved as part of an individual’s plan or those used on an emergency basis.”

Prior to consideration of any restrictive interventions, the use of non-restrictive behavioral strategies must first be considered. Positive behavior interventions are based on a tiered system that always begins with positive interactions before moving to formalized restrictive techniques. Tier 1 includes providing positive interactions, choice making, and predictable and proactive settings or environments. Tier 2 focuses on social, communication, emotional, and physiological intervention or therapies; mobile crisis teams; and behavioral respite based on trauma informed care. Tier 3 is the use of restrictive techniques based on a functional assessment and approved strategies developed in the Behavior Plan.

METHOD OF DETECTING UNAUTHORIZED USE OF RESTRICTIVE INTERVENTIONS

The following strategies are used to detect unauthorized use of restrictive interventions:

1. Waiver participants and family members are given the DDA contact number to report incidents to DDA. The policy is also available on the DDA website as a reference.
2. Quality monitoring and follow up activities are conducted by the Coordinator of Community Services where unauthorized restraints can be detected.
3. Licensee provider conducts staff performance evaluations and monitoring activities to ensure knowledge of policy, person specific strategies, and reporting requirements.
4. Incident Reports - The reporting of unauthorized restraint (restrictive interventions) is covered by the DDA’s incident policy (PORII) for which all DDA waiver providers are required to follow. The policy specifically addresses incidents of unauthorized restraints (restrictive interventions). The policy requires providers to submit a report within specified timeframes to DDA regarding the outcome and follow-up of the incident.
5. Complaints – anyone can call the DDA, SMA, or OHCQ to file a complaint including the use of restraint on a participant. In addition, complaints can be filed anonymously via the OHCQ

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website.

RESTRICTIVE INTERVENTIONS PROTOCOLS

Providers must adhere to the regulations set forth in the policy for Behavioral Support Services (BSS) according to COMAR 10.22.10. The DDA's BSS are designed to assist individuals who exhibit challenging behavioral in acquiring skills, gaining social acceptance, and becoming full participants in their community.

The emergency use of restrictive interventions is used only for the protection and life safety of waiver participant and others. Licensed waiver providers are required to document and report the use of emergency restraints (restrictive interventions) in accordance with the policy on reportable incidents.

Regulations and policy specify that a licensed provider must ensure that a Behavior Plan (BP) is developed for each individual for whom it is required and must:

1. Represent the least restrictive, effective alternative or the lowest effective dose of a medication;
2. Be implemented only after other methods have been systematically tried, and objectively determined to be ineffective;
3. Be developed, in conjunction with the team, by qualified professionals who have training and experience in applied behavior analysis;
4. Be based on and include a functional analysis or assessment of each challenging behavior as identified in the person-centered plan; specify the behavioral objectives for the individual, and include a description of the hypothesized function of current behaviors, including their frequency and severity and criteria for determining achievement of the objectives established;
5. Take into account the medical condition of the individual. It should describe the treatment techniques and when the techniques are to be used;.
6. Specify the emergency procedures to be implemented for the individual with a history of exhibiting behaviors that present a danger to self or serious bodily harm to others; and include a description of the adaptive skills to be learned by the individual that serve as functional alternatives to the challenging behavior or behaviors to be decreased;
7. Identify the person or persons responsible for monitoring the BP;
8. Specify the data to be collected to assess progress towards meeting the BP's objectives; and
9. Ensure that each use of mechanical and physical restraint, the reason for its use, and the length of time used is described and documented, as a part of data collection.

Before implementation, the licensee shall ensure that each behavior plan which includes the use of restrictive techniques is:

1. Approved by the standing committee as specified in regulations; and
2. Includes written informed consent of the: (a) individual; (b) individual's legal guardian; or (c) surrogate decision maker as defined in Health-General Article, Annotated Code of Maryland.

Before a licensee discontinues a behavior plan, the team and an individual appropriately licensed under Health Occupations Article with training and experience in applied behavior analysis shall recommend that the individual no longer needs a behavior plan.

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REQUIRED DOCUMENTATION OF USE OF RESTRICTIVE INTERVENTIONS

All use of restraints and restrictive techniques must be documented in the individual's record, including the specific technique, reasons for use, and length of time used. Antecedent, behavior, consequence data is reviewed as part of monitoring of the behavior plan.

Unauthorized restraints must be reported as per the policy on reportable incidents.

EDUCATION AND TRAINING REQUIREMENTS

In addition to training specific to an individual's BP, all individuals providing behavioral supports and implementing a BP must receive training on the principles of behavioral change and on appropriate methods of preventing or managing challenging behaviors as required by regulations.

- ii. **State Oversight Responsibility.** Specify the State agency (or agencies) responsible for monitoring and overseeing the use of restrictive interventions and how this oversight is conducted and its frequency:

The DDA, SMA, and OHCQ are responsible for overseeing the use of restraints and ensuring that State safeguards concerning their use are followed.

1. The DDA and OHCQ monitor community providers and ensure that services, including behavioral support services, are delivered in accordance with person-centered plan.
 - a. The OHCQ conducts regulatory site visits to licensed community providers to ensure that providers are providing services in accordance with COMAR regulations which includes the Behavior Support Services Program Service Plan.
 - b. DDA staff conduct on-site interviews with individuals and provider agency staff during visits and ascertain that services, including behavioral support services, are delivered in accordance with plans and that the participant is satisfied with services being received.
2. The OHCQ, DDA, and SMA conduct unannounced visits, observations, and interviews individuals to gauge quality of services, obtain needs and concerns, and follow up on any areas of concern. Interviews of individuals can be conducted in a private area, especially when the nature of the conversation involves the present staff.
3. The SMA conducts independent reviews and investigations which includes reviewing a sample of participant records to ensure that services were provided in accordance with requirements/assurances and were based on assessed needs, the person-centered plan and behavioral plan.

DATA USE STRATEGIES

1. DDA and OHCQ meet on a quarterly basis to data analysis, trends, and discuss person specific and systemic issues arising from investigation and survey reports.
2. Data collected as part OHCQ/DDA monitoring of behavioral supports is analyzed and provided to the Statewide Behavioral Supports Committee (SBSC) whose mission is to promote and monitor the safe, effective and appropriate use of behavior change techniques through recommendations to the DDA. Recommendations from the SBSC are used to make systemic improvements in the provision of behavioral supports for individuals receiving waiver services.
3. Data and trends can also be shared with the DDA Quality Advisory Council for input on

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system improvement strategies.

METHOD FOR OVERSEEING THE OPERATION OF THE INCIDENT MANGEMENT SYSTEM AND FREQUENCY

The DDA uses quarterly and annual quality reports related to performance measure data and system outcomes to oversee and continuously assess the effectiveness of the incident management system.

c. Use of Seclusion.

X	<p>The State does not permit or prohibits the use of seclusion</p> <p>Specify the State agency (or agencies) responsible for detecting the unauthorized use of seclusion and how this oversight is conducted and its frequency:</p> <p>The licensee shall ensure that staff do not use:</p> <ol style="list-style-type: none"> 1. Any method or technique prohibited by law, including aversive techniques; 2. Any method or technique which deprives an individual of any basic right specified in Health-General Article, Annotated Code of Maryland, except as permitted in regulations; 3. Seclusion; 4. A room from which egress is prevented; or 5. A program which results in a nutritionally inadequate diet. <p>METHOD OF DETECTING UNAUTHORIZED SECLUSION</p> <ol style="list-style-type: none"> 1. The DDA and OHCQ monitor community providers and ensure that services, including behavioral support services, are delivered in accordance with person-centered plan. <ol style="list-style-type: none"> a. The OHCQ conducts regulatory site visits to licensed community providers to ensure that providers are providing services in accordance with COMAR regulations which includes the Behavior Support Services Program Service Plan. b. DDA staff conduct on-site interviews with individuals and provider agency staff during visits and ascertain that services, including behavioral support services, are delivered in accordance with plans and that the participant is satisfied with services being received. 2. The OHCQ, DDA, and SMA conduct unannounced visits, observations, and interviews individuals to gauge quality of services, obtain needs and concerns, and follow up on any areas of concern. Interviews of individuals can be conducted in a private area, especially when the nature of the conversation involves the present staff. 3. The SMA conducts independent reviews and investigations which includes reviewing a sample of participant records to ensure that services were provided in accordance with requirements/assurances and were based on assessed needs, the person-centered plan and behavioral plan.
	<p>The use of seclusion is permitted during the course of the delivery of waiver services.</p> <p>Complete Items G-2-c-i and G-2-c-ii.</p>

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- i. **Safeguards Concerning the Use of Seclusion.** Specify the safeguards that the State has established concerning the use of each type of seclusion. State laws, regulations, and policies that are referenced in the specification are available to CMS upon request through the Medicaid agency or the operating agency (if applicable).

Not applicable

- ii. **State Oversight Responsibility.** Specify the State agency (or agencies) responsible for overseeing the use of seclusion and ensuring that State safeguards concerning their use are followed and how such oversight is conducted and its frequency:

Not applicable

Appendix G-3: Medication Management and Administration

This Appendix must be completed when waiver services are furnished to participants who are served in licensed or unlicensed living arrangements where a provider has round-the-clock responsibility for the health and welfare of residents. The Appendix does not need to be completed when waiver participants are served exclusively in their own personal residences or in the home of a family member.

- a. **Applicability.** Select one:

X	No. This Appendix is not applicable <i>(do not complete the remaining items)</i>
	Yes. This Appendix applies <i>(complete the remaining items)</i>

- b. **Medication Management and Follow-Up**

- i. **Responsibility.** Specify the entity (or entities) that have ongoing responsibility for monitoring participant medication regimens, the methods for conducting monitoring, and the frequency of monitoring.

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- ii. **Methods of State Oversight and Follow-Up.** Describe: (a) the method(s) that the State uses to ensure that participant medications are managed appropriately, including: (a) the identification of potentially harmful practices (e.g., the concurrent use of contraindicated medications); (b) the method(s) for following up on potentially harmful practices; and (c) the State agency (or agencies) that is responsible for follow-up and oversight.

- c. **Medication Administration by Waiver Providers**

- i. **Provider Administration of Medications.** *Select one:*

	Not applicable <i>(do not complete the remaining items)</i>
	Waiver providers are responsible for the administration of medications to waiver participants who cannot self-administer and/or have responsibility to oversee participant self-administration of medications. <i>(complete the remaining items)</i>

- ii. **State Policy.** Summarize the State policies that apply to the administration of medications by waiver providers or waiver provider responsibilities when participants self-administer medications, including (if applicable) policies concerning medication administration by non-medical waiver

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provider personnel. State laws, regulations, and policies referenced in the specification are available to CMS upon request through the Medicaid agency or the operating agency (if applicable).

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iii. **Medication Error Reporting.** *Select one of the following:*

	Providers that are responsible for medication administration are required to both record and report medication errors to a State agency (or agencies). Complete the following three items:
	(a) Specify State agency (or agencies) to which errors are reported:
	(b) Specify the types of medication errors that providers are required to <i>record</i> :
	(c) Specify the types of medication errors that providers must <i>report</i> to the State:
	Providers responsible for medication administration are required to record medication errors but make information about medication errors available only when requested by the State.
	Specify the types of medication errors that providers are required to record:

iv. **State Oversight Responsibility.** Specify the State agency (or agencies) responsible for monitoring the performance of waiver providers in the administration of medications to waiver participants and how monitoring is performed and its frequency.

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Quality Improvement: Health and Welfare

As a distinct component of the State's quality improvement strategy, provide information in the following fields to detail the State's methods for discovery and remediation.

a. **Methods for Discovery: Health and Welfare**

The State demonstrates it has designed and implemented an effective system for assuring waiver participant health and welfare. (For waiver actions submitted before June 1, 2014, this assurance read "The State, on an ongoing basis, identifies, addresses, and seeks to prevent the occurrence of abuse, neglect and exploitation.")

i. **Sub-assurances:**

a. Sub-assurance: The state demonstrates on an ongoing basis that it identifies addresses and seeks to prevent instances of abuse, neglect, exploitation and unexplained death. (Performance measures in this sub-assurance include all Appendix G performance measures for waiver actions submitted before June 1, 2014.)

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i. Performance Measures

For each performance measure the State will use to assess compliance with the statutory assurance complete the following. Where possible, include numerator/denominator.

For each performance measure, provide information on the aggregated data that will enable the State to analyze and assess progress toward the performance measure. In this section provide information on the method by which each source of data is analyzed statistically/deductively or inductively, how themes are identified or conclusions drawn, and how recommendations are formulated, where appropriate.

Performance Measure:	H- a - Number and percent of critical incidents reported within the required timeframe.		
Data Source (Select one) (Several options are listed in the on-line application): DDA			
If 'Other' is selected, specify:			
	Responsible Party for data collection/generation (check each that applies)	Frequency of data collection/generation: (check each that applies)	Sampling Approach (check each that applies)
	<input type="checkbox"/> State Medicaid Agency	<input type="checkbox"/> Weekly	X 100% Review
	X Operating Agency	<input type="checkbox"/> Monthly	<input type="checkbox"/> Less than 100% Review
	<input type="checkbox"/> Sub-State Entity	X Quarterly	<input type="checkbox"/> Representative Sample; Confidence Interval =
	<input type="checkbox"/> Other Specify:	<input type="checkbox"/> Annually	
		<input type="checkbox"/> Continuously and Ongoing	<input type="checkbox"/> Stratified: Describe Group:
		<input type="checkbox"/> Other Specify:	
			<input type="checkbox"/> Other Specify:

b. Sub-assurance: The State demonstrates that an incident management system is in place that effectively resolves those incidents and prevents further similar incidents to the extent possible.

For each performance measure the State will use to assess compliance with the statutory assurance (or sub-assurance), complete the following. Where possible, include numerator/denominator.

For each performance measure, provide information on the aggregated data that will enable the State to analyze and assess progress toward the performance measure. In this section provide information on the method by which each source of data is analyzed statistically/deductively or inductively, how themes are identified or conclusions drawn, and how recommendations are formulated, where appropriate.

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Performance Measure:	<i>HW b- 1- Number and percent of incidents with investigation initiated within the required timeframe.</i>		
Data Source (Select one) (Several options are listed in the on-line application): DDA			
If 'Other' is selected, specify:			
	Responsible Party for data collection/generation (check each that applies)	Frequency of data collection/generation: (check each that applies)	Sampling Approach (check each that applies)
	<input type="checkbox"/> State Medicaid Agency	<input type="checkbox"/> Weekly	<input type="checkbox"/> 100% Review
	<input checked="" type="checkbox"/> Operating Agency	<input type="checkbox"/> Monthly	<input checked="" type="checkbox"/> Less than 100% Review
	<input type="checkbox"/> Sub-State Entity	<input checked="" type="checkbox"/> Quarterly	<input checked="" type="checkbox"/> Representative Sample; Confidence Interval =95
	<input type="checkbox"/> Other Specify:	<input type="checkbox"/> Annually	
		<input type="checkbox"/> Continuously and Ongoing	<input type="checkbox"/> Stratified: Describe Group:
		<input type="checkbox"/> Other Specify:	
			<input type="checkbox"/> Other Specify:

Performance Measure:	<i>HW b-2- Number and percent of incidents with investigation completed within the required timeframe.</i>		
Data Source (Select one) (Several options are listed in the on-line application): DDA			
If 'Other' is selected, specify:			
	Responsible Party for data collection/generation (check each that applies)	Frequency of data collection/generation: (check each that applies)	Sampling Approach (check each that applies)
	<input type="checkbox"/> State Medicaid Agency	<input type="checkbox"/> Weekly	<input type="checkbox"/> 100% Review
	<input checked="" type="checkbox"/> Operating Agency	<input type="checkbox"/> Monthly	<input checked="" type="checkbox"/> Less than 100% Review
	<input type="checkbox"/> Sub-State Entity	<input checked="" type="checkbox"/> Quarterly	<input checked="" type="checkbox"/> Representative Sample; Confidence Interval =95
	<input type="checkbox"/> Other Specify:	<input type="checkbox"/> Annually	
		<input type="checkbox"/> Continuously and Ongoing	<input type="checkbox"/> Stratified: Describe Group:
		<input type="checkbox"/> Other Specify:	

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			<input type="checkbox"/> Other Specify:

- c. **Sub-assurance: The State policies and procedures for the use or prohibition of restrictive interventions (including restraints and seclusion) are followed.**

For each performance measure the State will use to assess compliance with the statutory assurance (or sub-assurance), complete the following. Where possible, include numerator/denominator.

For each performance measure, provide information on the aggregated data that will enable the State to analyze and assess progress toward the performance measure. In this section provide information on the method by which each source of data is analyzed statistically/deductively or inductively, how themes are identified or conclusions drawn, and how recommendations are formulated, where appropriate.

Performance Measure:	HW – c - Number and percent of incidents of restraint where proper procedures were followed. Percent = number of incidents of restraint where proper procedures were followed /number of incidents of restraint		
Data Source (Select one) (Several options are listed in the on-line application): DDA			
If 'Other' is selected, specify:			
	Responsible Party for data collection/generation (check each that applies)	Frequency of data collection/generation: (check each that applies)	Sampling Approach (check each that applies)
	<input type="checkbox"/> State Medicaid Agency	<input type="checkbox"/> Weekly	X 100% Review
	X Operating Agency	<input type="checkbox"/> Monthly	<input type="checkbox"/> Less than 100% Review
	<input type="checkbox"/> Sub-State Entity	X Quarterly	<input type="checkbox"/> Representative Sample; Confidence Interval =
	<input type="checkbox"/> Other Specify:	<input type="checkbox"/> Annually	
		<input type="checkbox"/> Continuously and Ongoing	<input type="checkbox"/> Stratified: Describe Group:
		<input type="checkbox"/> Other Specify:	
			<input type="checkbox"/> Other Specify:

- d. **Sub-assurance: The State establishes overall health care standards and monitors those standards based on the responsibility of the service provider as stated in the approved waiver.**

For each performance measure the State will use to assess compliance with the statutory assurance (or sub-assurance), complete the following. Where possible, include numerator/denominator.

For each performance measure, provide information on the aggregated data that will enable the State to analyze and assess progress toward the performance measure. In this section provide

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information on the method by which each source of data is analyzed statistically/deductively or inductively, how themes are identified or conclusions drawn, and how recommendations are formulated, where appropriate.

Performance Measure:	HW – d- Number and percent of waiver participants receiving an annual check-up.		
Data Source (Select one) (Several options are listed in the on-line application): DDA			
If 'Other' is selected, specify:			
	Responsible Party for data collection/generation (check each that applies)	Frequency of data collection/generation: (check each that applies)	Sampling Approach (check each that applies)
	<input type="checkbox"/> State Medicaid Agency	<input type="checkbox"/> Weekly	<input type="checkbox"/> 100% Review
	<input checked="" type="checkbox"/> Operating Agency	<input type="checkbox"/> Monthly	<input checked="" type="checkbox"/> Less than 100% Review
	<input type="checkbox"/> Sub-State Entity	<input checked="" type="checkbox"/> Quarterly	<input type="checkbox"/> Representative Sample; Confidence Interval = 95
	<input type="checkbox"/> Other Specify:	<input type="checkbox"/> Annually	
		<input type="checkbox"/> Continuously and Ongoing	<input type="checkbox"/> Stratified: Describe Group:
		<input type="checkbox"/> Other Specify:	
			<input type="checkbox"/> Other Specify:

- ii. If applicable, in the textbox below provide any necessary additional information on the strategies employed by the State to discover/identify problems/issues within the waiver program, including frequency and parties responsible.

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b. Methods for Remediation/Fixing Individual Problems

- i. Describe the State's method for addressing individual problems as they are discovered. Include information regarding responsible parties and GENERAL methods for problem correction. In addition, provide information on the methods used by the State to document these items.

Incident Reporting and Investigations:
DDA's Quality Enhancement staff provides oversight and insure compliance related to reporting requirements associated with the incident management system. They will provide technical assistance and support on an ongoing basis to service providers and the Office of Health Care Quality (OHCQ) to address specific remediation items. Based on the items, a variety of remediation strategies may be used including conference call, letter, in person meeting, and training. Remediation efforts will be

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documented in the provider file and with the OHCQ Executive Director.

Unauthorized Restraints:

DDA's Director of Clinical Services will review unauthorized restraints and coordinate with DDA Provider Relations staff for provider specific remediation needed. DDA's Provider Relations staff provides technical assistance and support on an ongoing basis to providers and will address provide specific remediation items. Based on the items, a variety of remediation strategies may be used including conference call, letter, in person meeting, and training. Remediation efforts will be documented in the provider file.

Annual Check-Ups:

DDA's Coordination of Community Services staff provides technical assistance and support on an ongoing basis to Coordination of Community Services and will address provide specific remediation items. Based on the items, a variety of remediation strategies may be used including conference call, letter, in person meeting, and training. Remediation efforts will be documented in the provider file.

ii. Remediation Data Aggregation

	Responsible Party (<i>check each that applies</i>):	Frequency of data aggregation and analysis (<i>check each that applies</i>)
	<input type="checkbox"/> State Medicaid Agency	<input type="checkbox"/> Weekly
	<input checked="" type="checkbox"/> Operating Agency	<input type="checkbox"/> Monthly
	<input type="checkbox"/> Sub-State Entity	<input checked="" type="checkbox"/> Quarterly
	<input type="checkbox"/> Other Specify:	<input type="checkbox"/> Annually
		<input type="checkbox"/> Continuously and Ongoing
		<input type="checkbox"/> Other Specify:

c. Timelines

When the State does not have all elements of the Quality Improvement Strategy in place, provide timelines to design methods for discovery and remediation related to the assurance of Health and Welfare that are currently non-operational.

<input checked="" type="radio"/>	No
<input type="radio"/>	Yes

Please provide a detailed strategy for assuring Health and Welfare, the specific timeline for implementing identified strategies, and the parties responsible for its operation.

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